

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RENE BRETADO	§	
v.	§	CIVIL ACTION NO. 6:07cv350
DR. HAROLD CLAYTON, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Rene Bretado, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On September 18, 2007, orders for an initial partial filing fee and to file an amended complaint were sent to Bretado at his last known address, but were returned as undeliverable because Bretado had been released from custody. On October 29, 2007, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge also recommended that because it could not be determined when the events forming the basis of the lawsuit took place, the statute of limitations be suspended for a period of 60 days following the date of entry of final judgment.

A copy of this Report was sent to Bretado at his last known address, return receipt requested, but no objections have been received; accordingly, Bretado is barred from *de novo* review by the district judge of those findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions

accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that the statute of limitations on the Plaintiff's claims in this lawsuit be and hereby is SUSPENDED from the date of filing of this lawsuit until sixty (60) days following the date of entry of final judgment in this case. *See Mills v. Criminal District Court No. 3*, 837 F.2d 677 (5th Cir. 1988); Rodriguez v. Holmes, 963 F.2d 799 (5th Cir. 1992). Finally, it is hereby

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 13th day of December, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE